



## Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

**Citation:** Alazawi v Robertson and Perry, 2023 ONLTB 36800

**Date:** 2023-05-04

**File Number:** LTB-L-027831-22-RV

**In the matter of:** 18 VALLEYBROOK DRIVE  
KITCHENER ON N2A0K1

**Between:** Ayad Ghazi Khaza and Fatin Farouq Alazawi Landlord

**And**

Frederick Perry and Jaimey Robertson Tenants

### Review Order

Ayad Ghazi Khazal and Fatin Farouq Alazawi (the 'Landlord') applied for an order to terminate the tenancy and evict Frederick Perry and Jaimey Robertson (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-027831-22 issued on May 1, 2023.

On May 3, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

A preliminary review of the review request was completed without a hearing.

### Determinations:

1. I have listened to the April 17, 2023 hearing recording and have reviewed the Board's application record. On the basis of the submissions made in the request, I am not satisfied that there is a serious error in the May 1, 2023 hearing order, or that a serious error occurred in the proceedings or in the presiding Member's exercise of discretion.
2. This application is about how the tenancy came to and end. The Landlord served on the Tenants an N4 notice of termination for arrears of rent.
3. The matter came before the Board on April 17, 2023 where the Landlord, their representative, and the second-named Tenant attended the hearing. On the date of the hearing, the Tenant acknowledged having the authority to represent the interests of the Tenant Frederick Perry.
4. The substance of the review request is that the order contains a serious error; specifically, that the first-named Tenant did not have opportunity to participate at the hearing and his testimony "would have helped...". The Tenant also claims the order contains a serious

error as the Tenants' evidence was not discussed and it was provided 5 days prior to the hearing.

5. With respect to the Tenant's claim that her husband should have had the opportunity to participate and testify at the hearing, I note, the hearing recording and final order both reflect the second-named Tenant acknowledged her husband's absence and chose to proceed with the hearing. The hearing recording confirms that the Tenant was aware of the issues to be determined at the hearing, and the Tenant willingly exercised her right to participate in the hearing.
6. The Board record contains no request to reschedule the hearing nor did the Tenant seek an adjournment on the date of the hearing. Although the Tenant, in the review request, seeks to revisit her choice to proceed on the date of the hearing, it does not constitute serious error in the order.
7. The Tenants also claim error in the Board order when the presiding Member failed to accept the Tenants' evidence. I disagree, the recording shows that the presiding Member accepted the Tenant's submissions on circumstances related to the arrears of rent, section 82 issues and circumstances under section 83 of the Act. In fact, the Tenant, in her testimony, acknowledged the arrears of rent with the exception of November 2021. The Tenant, in testimony, also confirmed she did not submit "paperwork" to support her position on the November payment as detailed in paragraph 7 of the order.
8. The recording does not support the Tenant's assertion that the presiding Member did not refer to the Tenants' evidence. The Tenant, for example, introduced evidence and led submissions with respect to the arrears of rent, and section 82 issues. The Tenant did not lead reliable evidence on her position with respect to the amount of arrears and the problems identified in the section 82 claim.
9. Ultimately, the presiding Member made his determination on a finding of fact. The hearing recording and application record show that there was sufficient evidence for the presiding Member to find on a balance of probabilities, that the Tenants were in significant arrears of rent, the Landlord did not harass or substantially interfere with the Tenants' reasonable enjoyment of the rental unit and an order to repair the washing machine.
10. The request to review essentially please the result is unfair and seeks to revisit the presiding Member's decision. While the Tenants clearly disagree with the decision, the purpose of the review process is not to provide parties with an opportunity of relitigating the issues. I would not interfere with the assessment of the evidence by the hearing member, who had the opportunity of hearing the evidence in its totality.
11. Given all of the above, I am not satisfied that there is a serious error in the order or that a serious error occurred in the proceedings or that the Tenants were not reasonably able to participate in the proceeding. As a result, the request for review must be denied.

**It is ordered that:**

1. The request to review order LTB-L-027831-22 issued on May 1, 2023 is denied. The order is confirmed and remains unchanged.



**May 4, 2023**  
**Date Issued**

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Dana Wren  
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.